IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 4TH OCTOBER 2007 / 12TH ASWINA 1929

Bail Appl..No. 5948 of 2007(A)

[OR NO.6/2006 OF ANAKULAM FOREST STATION OF KUTTAMPUZHA RANGE]

: PETITIONERS/ACCUSED NOS 2,3, AND 9

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1. ANILKUMAR,S/O. THANKAPPAN,
KOIKAL HOUSE, VIRINJAPARA, MANKULAM VILLAGE,
DEVIKULAM TALUK.

2. BAIJU,S/O. RAJAPPAN,
PARAKUZHIL HOUSE,VIRINJAPARA,
MANKULAM VILLAGE,DEVIKULAM TALUK.

3. MANOJ, KEERIKUNNEL HOUSE,
MANKULAM VILLAGE,DEVIKULAM TALUK.

BY ADV. SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE

RESPONDENTS: RESPONDENT

STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH CORUT OF KERALA
ERNAKULAM REPRESENTING THE DEPUTY RANGE OFFICER,
KUTTAMPUZHA RANGE,ANAKULAM FOREST STATION,
ENAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 04/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.5948 of 2007

Dated this the 4th day of October 2007

O R D E R

Second application for anticipatory bail. The petitioners are accused 2,3 and 9. They face allegations for offences punishable under the Kerala Forest Act. The crux of the allegations is that they trespassed into the reserve forest and cut and removed teak trees standing in such reserve forest. The alleged incident took place some time in September 2006.

2. The earlier application for anticipatory bail filed by the petitioners along with some other accused was dismissed by another Bench of this Court on 4/12/2006 with observations that the petitioner can surrender before the learned Magistrate and seek regular bail within a period of two weeks. The petitioners admittedly have not so far surrendered before the learned Magistrate. This is a second application for anticipatory bail and it is incumbent on the petitioners to show change of circumstances justifying a fresh consideration of their bail application.

3. The learned counsel for the petitioners submits that elapse of time and the subsequent investigation are reasons which according to him justify a fresh consideration of the application for anticipatory bail. Elapse of time by itself would be irrelevant. The learned counsel

for the petitioners submits that further investigation has revealed that the petitioners have no contumacious or culpable role. The learned Public Prosecutor on the contrary asserts that further investigation conducted has only confirmed the complicity of the petitioners and there is absolutely no circumstances to justify a fresh consideration of the prayer for anticipatory bail which already stands rejected by order dated 4/12/2006.

4. Having considered all the relevant circumstances, I find merit in the opposition by the learned Public Prosecutor. I am unable to find any change in circumstance which can justify a fresh consideration of the bail application, which stands rejected as per earlier order dated 4/12/2006, on merits.

5. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007